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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,929	03/23/2004	Susumu Kashiwase	81922.0007	1834
26/021 7590 05/18/2009 HOGAN & HARTSON LLP. 1999 AVENUE OF THE STARS SUITE 1400 LOS ANGELES, CA 90067				
EXAMINER				
PEREZ, JULIO R				
ART UNIT		PAPER NUMBER		
2617				
MAIL DATE		DELIVERY MODE		
05/18/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/806,929

**Applicant(s)**

KASHIWASE, SUSUMU

**Examiner**

JULIO R. PEREZ

**Art Unit**

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/24/09 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Proctor, Jr. (US 6,925,070) in view of Chennakeshu et al. (6091936).

Regarding claims 1, 2, 3, Proctor discloses a wireless telecommunication system, wireless terminal and base station, (Figure 1) comprising: a wireless base station (Figure 1, #'s 18, 20); at least one first wireless communication terminal (Figure 1, #, i.e., 14-1) that delivers packets by using one frequency channel (Figure 3, col. 2, lines 35-47, data packets are transmitted to receivers); and at least one second wireless communication terminal (Figure 1, # 14-2, wireless terminal) that delivers packets by using a plurality of frequency channels simultaneously, wherein the frequency channels

are formed by a plurality of time slots (Figures 1, 3, col. 2, line 51-54, col. 3, lines 15-26, col. 5, lines 35-45, teach several slots conform to channels; frequency channels, for delivering packets); and transmits non-simultaneously for the plurality of frequency channels (col. 2, lines 35-38, 45-62, the transmission may be executed periodically).

With further regard to claim 2, Proctor discloses an access unit that transmits time slots for indicating the terminals to which the channels are allocated (Figure 3, col.2, lines 35-38; col. 9, lines 1-35).

With further regard to claim 3, Proctor discloses the wireless terminal (Figure 1, 3 14-1-14-2) that can deliver frequency channel formed by time slots sent for allocating slots (Figure 3, #'s 320,330; figure 5, #'s 510,530, col. 2, lines 35-38, 45-62).

What Proctor does not specifically disclose is transmitting non-simultaneously the signal for the plurality of frequency channels for switching the frequency channels from the base station.

Chennakeshu discloses partitioning overall time frequency spectrum to a plurality of frequency bands to extend a plurality of time slots to categorize users as high speed users and low speed users (Figure 4; col. 6, lines 21-54; lines 3-39).

It would have been obvious to one skilled in the art at the time of the invention to modify Proctor, such that transmitting non-simultaneously the signal for the plurality of frequency channels, to provide control of the allocation of frequency channels transmitted from the base stations to different requirements form terminals.

***Response to Arguments***

4. Applicant's arguments with respect to claims 1-3 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JULIO R. PEREZ whose telephone number is (571)272-7846. The examiner can normally be reached on 10:30 - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Edouard can be reached on (571) 272-7603. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. R. P./  
Examiner, Art Unit 2617

5/09/09

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/NICK CORSARO/

Supervisory Patent Examiner, Art Unit 2617